



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No:2599-97

14 July 1999

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Naval Reserve filed enclosure (1) with this Board requesting that his record be corrected to establish eligibility for retired pay at age 60 and that he be retired in pay grade E-6.

2. The Board, consisting of Mr. Kastner, Ms. Hare and Ms. Wiley, reviewed Petitioner's allegations of error and injustice on 7 July 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner was discharged from the Air Force on 30 August 1965 at the end of 14 years of active service. He then served in the Air Force Reserve (USAFR) from 15 September 1965 until 14 September 1967 but did not earn any qualifying years for reserve retirement.

d. On 10 February 1973, after a break in service of over five years, he again enlisted in the USAFR and earned one qualifying year for retirement purposes. There is no indication of additional service in the USAFR. The statement of service shows another break in service until he enlisted in the National Guard on 6 May 1978. He served in that component until he was honorably discharged in pay grade E-6 on 11 September 1980 for

the purpose of enlisting in the Naval Reserve. He enlisted in the Naval Reserve on 12 September 1980 for six years in the rate of SN (E-3). During the seven year period from 6 May 1978 through the end of the anniversary year on 5 May 1985, Petitioner earned five qualifying years. The record now shows that Petitioner transferred to the Retired Reserve on 1 September 1985 in the rate of SN.

e. As indicated, Petitioner has 14 years of active service and six qualifying years of reserve service. Accordingly, he have been credited with 20 qualifying years for reserve retirement. However, he is not eligible for retired pay at age 60 because the law requires that the last eight years of qualifying service be in the reserve component and Petitioner only had six. Petitioner was 60 years old on 20 November 1993 and has been trying to have his record corrected since then.

f. The Naval Reserve Personnel Center has reported that Petitioner completed correspondence courses in 1991 for a total of 26 points. However, these points have not been credited because an individual cannot earn points when discharged or retired.

g. Petitioner contends that his retired pay should be based on the highest grade satisfactorily held and that if his retirement is approved, he should be paid as an E-6.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes that Petitioner apparently believed that he was eligible for retired pay at age 60 because he certainly would have continued to drill if he had been aware of the eight year requirement. Since Petitioner may not have been aware of that requirement, and served in an excellent manner, the Board concludes that the record should be corrected to show that the last eight qualifying years were in the reserve component and that the record should be further corrected to show that he transferred to the Retired List on 20 November 1993, his 60th birthday.

This correction can be accomplished by transferring 31 retirement points from the anniversary year ending 5 May 1983 to the anniversary year ending 5 May 1982 and by crediting Petitioner with the 26 points from the 1991 correspondence courses into the anniversary year ending 5 May 1985. With these corrections Petitioner will have the last eight years of qualifying service in a reserve component.

Concerning the grade on retirement the Board notes that the record correctly shows that Petitioner was serving in pay grade E-3 at the time of his retirement. Therefore the Board defers to the Naval Reserve Personnel Center and/or the Defense Finance and Accounting Service for any determination as to pay grade for retirement purposes.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status on the Retired List.

RECOMMENDATION:

- a. That Petitioner's naval record be corrected by transferring 31 retirement points from the anniversary year ending 5 May 1983 to the anniversary year ending 5 May 1982 and by crediting Petitioner with an additional 26 retirement points in the anniversary year ending 5 May 1985.
  - b. That Petitioner's record be further corrected to show that he transferred to the Retired List on 20 November 1993.
  - c. That no action be taken on his request for retirement in pay grade E-6.
  - d. That this Report of Proceedings be filed in Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER  
Executive Director